

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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KEVIN CRICLOW,

Plaintiff,

ORDER OF SERVICE

-against-

12-cv-7774 (NSR) (AEK)

DR. ELLEN YOUSSEF; WARDEN ADA PEREZ;
IGRC EARL HUGHES; DR. STOLFL, D.D.S;
DORIS BARCZAK,

Defendants.

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THE HONORABLE ANDREW E. KRAUSE, U.S.M.J.

By order dated February 8, 2013, the Court granted Plaintiff's request to proceed without prepayment of fees, that is, *in forma pauperis*. ECF No. 5. On January 11, 2022, the Court granted Plaintiff permission to file a Second Amended Complaint. Plaintiff filed his Second Amended Complaint on May 19, 2022; the amended pleading added four new defendants. ECF No. 202. To allow Plaintiff to effect service on newly-named Defendants Ada Perez and Earl Hughes through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form ("USM-285 form") for each of these defendants. The service addresses for these defendants are as follows:

Ada Perez
c/o New York State Department of Corrections and
Community Supervision
The Harriman State Campus, Building 2
1220 Washington Avenue
Albany, NY 12226

Earl Hughes
c/o New York State Department of Corrections and
Community Supervision
The Harriman State Campus, Building 2
1220 Washington Avenue
Albany, NY 12226

The Clerk of Court is further instructed to issue summonses with respect to Defendants Perez and Hughes and deliver to the Marshals Service all of the paperwork necessary for the Marshals Service to effect service upon these defendants.

Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that a summons and complaint be served within 90 days of the date the complaint is filed, the Court hereby extends the time to serve Defendants Perez and Hughes until 90 days from the date of this Order, i.e., until September 29, 2022. If the Second Amended Complaint is not served on Defendants Perez and Hughes within that time, Plaintiff should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff's responsibility to request an extension of time for service); *see also Murray v. Pataki*, 378 F. App'x 50, 52 (2d Cir. 2010) ("As long as the [plaintiff proceeding *in forma pauperis*] provides the information necessary to identify the defendant, the Marshals' failure to effect service automatically constitutes 'good cause' for an extension of time within the meaning of Rule 4(m).").

As discussed during the July 1, 2022 conference with the Court, with respect to newly-named Defendants Dr. Stolfl, D.D.S. and Doris Barczak, service cannot be effectuated through the U.S. Marshals Service until such time as Plaintiff provides the Court with these defendants' addresses. The Court also hereby extends the deadline to complete service on Dr. Stolfl and Ms. Barczak to September 29, 2022. In order for those defendants to be served by September 29, 2022, however, Plaintiff will have to provide their addresses to the Court well in advance of the

deadline. The failure to effect proper service on a defendant by the September 29, 2022 deadline may result in the dismissal of Plaintiff's claims against that defendant.

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Counsel for Defendants failed to appear for the July 1, 2022 status conference before Magistrate Judge Krause. Accordingly, the conference is hereby rescheduled to **July 15, 2022 at 10:00 a.m.** To access the teleconference, please follow these directions: (1) dial the meeting number: (877) 336-1831; (2) enter the access code: 2751700; and (3) press pound (#) to enter the teleconference as a guest. Should Plaintiff or counsel experience any technical issues with the teleconferencing system, please contact Chambers at (914) 390-4070.

Counsel for Defendants must make arrangements with the appropriate correctional facility to have the *pro se* Plaintiff available via telephone.

The Clerk of the Court is respectfully directed to mail a copy of this Order to the *pro se* Plaintiff.

Dated: July 1, 2022
White Plains, New York

SO ORDERED.



ANDREW E. KRAUSE
United States Magistrate Judge